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SUBJECT: 40th AEC Plenary: Legislation, Census, Abyei, and Foreign Exchange

REF: KHARTOUM 129

11. (U) SUMMARY: At the Assessment and Evaluation Commission's (AEC) 40th plenary session on February 3, the NCP and SPLM provided status reports on pending CPA-related legislation (notably the southern referendum law), and plans to announce census results by the end of February. The SPLM refused to commit itself to accepting the census results when released. An abbreviated discussion of Abyei focused on the need to rapidly disburse revenues to the Abyei administration, and the AEC chairman and the U.S. highlighted their as yet unsuccessful efforts to schedule a Wealth Sharing Working Group meeting to focus on that issue. CPA partners urged the GNU and GoSS to resolve the dispute over foreign exchange reserves as rapidly as possible, to avoid it escalating into a political crisis between the parties. END SUMMARY.

Chairman's Introduction

12. (U) AEC Chairman Derrick Plumbly remarked that there is a full CPA-implementation agenda in 2009. Of immediate concern, he noted continued tensions in Southern Kordofan as an important issue that deserves special attention. He reported that Southern Kordofan's governor is discussing developments there with both the SPLM and NCP and he noted the need for transparency and for UNMIS proactivity in the area. Plumbly also acknowledged the upcoming Juba roundtable that will launch the Disarmament, Demobilization, and Reintegration program in Southern Kordofan and Blue Nile states. He ended his introduction by noting that the AEC also is awaiting a response to its offer of assistance to the National Election Commission.

Pending Legislation

13. (U) In an extended discussion of pending legislation, SPLM-appointed State Minister for Justice Wek Mamer Kuol reported that draft laws on the criminal courts, the Human Rights Commission and the Land Commission have been agreed to by the two CPA parties, approved by the Council of Ministers and are now before the National Assembly. The parties continue to disagree about points in the key Security Bill, notably regarding the power of arrest. He stated that the SPLM also has shared with the NCP drafts of laws on the 2011 referendum on southern self-determination, the Abyei referendum, and popular consultations in Southern Kordofan and Southern Blue Nile states. Responding to a question, SPLM representative Kostis Manibe affirmed that the National Assembly will remain in session until all of the legislation is adopted.

14. (SBU) Speaking for the NCP, legal expert Abdel Rahman El Khalifa argued the need to involve other players besides the two CPA parties in discussions of legislation in order to avoid "bilateral" agreements. Specifically, while the SPLM draft of the southern-referendum law might be acceptable to the NCP, an issue of such national importance requires a general consensus by all political groups. El Khalifa also argued that the law needs to address specifically what will be the options presented on the

ballot, to ensure that voters clearly understand what (i.e., continued national unity or southern independence) they are choosing. The NCP also wants the law to address the manner in which whatever choice the voters make will be implemented. The NCP expressed skepticism on the need for any laws on the Abyei referendum or popular consultations in Nuba and Blue Nile.

¶5. (SBU) The SPLM expressed its view that additional laws are required to organize the Abyei referendum and the popular consultations, and indicated that it agreed in principle on the need for the southern referendum law to state precisely what options would be offered the voters. However, the SPLM argued that discussion how a decision on unity or independence would be implemented should wait until after the referendum.

¶6. (SBU) International partners all emphasized the importance of the pending legislation, especially the media, security and referendum laws, in implementing the CPA and urged their adoption as soon as possible. Chairman Plumbly concluded the discussion by noting that both parties are clearly engaged on the issues and that the meeting's discussion had helped move things forward.

Census Results to be Released in February

¶7. (U) The NCP reported that the census results from north and south have been merged and are being checked. When this is complete the technical committee will meet, then the National Council on the Census will convene to submit the final results to the Presidency for public release by the end of February.

¶8. (SBU) Italian Ambassador Catoni (Power Sharing Working Group Coordinator) stated that, while not perfect, the census was the best

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that could be done under the circumstances and noted that its results will provide important data for other CPA issues, including power sharing and civil service representation. Dutch Ambassador Braakhuis (Three Areas WG Coordinator) noted the extreme sensitivity of the census results in Southern Kordofan's Nuba Mountains, which will need to be addressed specifically. African Union Ambassador Kane said he was glad to hear that release of the results is on track and stated that it is important that the parties commit themselves to accept the results. He asked the NCP and SPLM if they were prepared to do so.

¶9. (SBU) Speaking for the SPLM, Kostis Manibe described the technical aspects of the census as very professionally done, but said the GOSS has the same reservations as in May, when it had sought a delay in census enumeration. He noted a number of concerns the SPLM has about census coverage and said that many people in the south report they were not counted. Manibe wondered whether there are procedures that can adjust for this.

¶10. (SBU) NCP representative Idriss Abdelgadir responded that this was Sudan's first census carried out in peacetime, and with the full cooperation of the GOSS and the participation of the UN. He noted that no census achieves 100 percent coverage and that adjustments already are included in the process to compensate for this. Abdelgadir agreed that political adjustments may be necessary after the results are released, but urged that these should be kept separate from the technical process now underway. He noted that the CPA calls for power sharing quotas to be reviewed based on census results, but said that whether and how to do so is a political decision that the parties can approach later.

¶11. (SBU) Chairman Plumbly summed up by saying that while there are problems with the census, it is a significant technical achievement. There will be a need for discussion and consultation, particularly on the release of results and on power sharing. He concluded by saying that it will be important to avoid contentious discussions.

Abyei

¶13. (SBU) The Chairman said that, due to the inability of the UN Head of Office in Abyei to attend, it would be impossible to have the planned briefing on the security situation there; however, he

described it as "fragile." He added that the core issue is the lack of funding for the Interim Administration's (AIA) budget. Dutch Ambassador Braakhuis noted that the Three Areas WG had visited the area in January and observed that the lack of revenues have left a "vacuum" in Abyei. The AIA has been unable to hold a planned Ngok Dinka-Misseriya reconciliation conference and, as a result, the annual migration is at a standstill and the Misseriya are rapidly running out of fodder for their cattle. He said that the international community has done little to assist the Misseriya, adding that the situation in Southern Kordofan is almost as dire as that north of Abyei. The European Commission concurred that financing the AIA is crucial and wondered whether donors should step in. He also criticized the UN and implementing NGOs there as too cautious.

¶14. (SBU) The NCP expressed the view that this issue would be better discussed at the Working group level and sought to place responsibility for the delays on actions that the AIA needed to take. He reported that seed money would be released to the AIA that day. He said that the Presidency would consult with the Ngok Dinka and Misseriya on how they will receive the two percent of revenues due to each, but that this must be organized by the AIA. He added that the Presidency had instructed the Unity Fund to give priority to funding the AIA's headquarters.

¶15. (SBU) Chairman Plumbly and the U.S. described their efforts to arrange a Wealth Sharing WG meeting in January to discuss the issue.

The U.S. noted that the NCP had proposed such a meeting and that the Director of the Unity Fund had made himself available to brief the WG. However, the NCP so far had been unable to attend on any of the proposed dates.

Foreign Exchange Dispute Fester

¶16. (SBU) Chairman Plumbly noted that the GNU-GoSS dispute on foreign exchange reserves continues to fester (reftel) and could turn into a political crisis if not resolved. The U.S. agreed, noting the danger that the dispute could escalate and become the subject of mutual recrimination at a time when Sudan faces multiple other challenges. He urged the two sides to resolve the matter as quickly as possible. The NCP stated that the issue needs to be addressed between the Central Bank of Sudan and the bank of Southern Sudan.

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Working Group Updates

¶17. (U) Italian Ambassador Catoni reported that the Power Sharing WG plans a February meeting focused on border demarcation and elections issued. The U.S. stated that it would continue to try to arrange a meeting of the Wealth Sharing WG on the Abyei revenues issue during February. The NCP proposed that the Wealth Sharing WG schedule a discussion of the impact of the global financial crisis on Sudan's economy.

Other Business

¶18. (U) Chairman Plumbly stated that the AEC had prepared its annual report to the GNU and GoSS on its 2008 activities and would circulate the draft for clearance by February 14.

Comment

¶19. (SBU) The 40th Plenary highlighted the many pitfalls lurking in the busy 2009 agenda. The SPLM and NCP remain at loggerheads over key legislation required both for the national election and the 2011 referendum, the SPLM is unlikely to accept the census results, and both Abyei and the foreign exchange dispute continue to simmer beneath the surface as unresolved issues that could blow into full blown crises if the overall relationship between the CPA partners deteriorates.

FERNANDEZ